

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ITV DIRECT, INC.

Plaintiffs,

v.

HEALTHY SOLUTIONS, LLC, et al,

Defendants.

AND RELATED CASES

) Civil Action No. 04-CV-10421-JLT
)
) Honorable Joseph L. Tauro
)
) DECLARATION OF GREGORY R.
) GEREMESZ IN OPPOSITION TO
) CAPPSEALS MOTION FOR PARTIAL
) SUMMARY JUDGMENT
)
)
)
)
)
)

I, Gregory R. Geremesz, do declare:

1. I am the Chief Executive Officer of Healthy Solutions, LLC, dba Direct Business Concepts, a California limited liability company. I make this declaration on my own personal knowledge and, if called to testify, would testify in conformance with this declaration.

2. Healthy Solutions LLC had an on-going business relationship with Cappseals, Inc., a Washington corporation ("Cappseals") to manufacture and bottle Supreme Greens on Healthy Solutions LLC's behalf for sale to ITV Direct Inc.

3. The general pattern of payment to Cappseals for the manufacture and bottling of Supreme Greens follows: First, Cappseals would issue an invoice to Healthy Solutions LLC at the time it shipped the bottled Supreme Greens to ITV Direct's related entity, Direct Fulfillment. Healthy Solutions LLC would in turn issue an invoice to ITV Direct, which subsequently paid Healthy Solutions LLC. As early as the autumn of 2003, Cappseals explicitly agreed, an agreement which did not vary throughout these transactions, to expect payment for shipped goods when Healthy Solutions LLC had received payment from ITV Direct. The purchase orders at issue did not state a due date for payment, and in any event, Cappseals agreed to accept payment whenever ITV Direct paid Healthy Solutions LLC.

4. Shortly after Healthy Solutions received a statement of outstanding invoices in March 2004, I discussed the status of payment from ITV Direct with Cappseals on many occasions. Healthy Solutions LLC and Cappseals were always in agreement that Healthy Solutions LLC would pay when ITV Direct paid. Cappseals reiterated and agreed many times in numerous conversations to accept payment whenever Healthy Solutions LLC got paid by ITV Direct, even after Cappseals filed a Complaint against ITV Direct in Cappseals Inc. v. ITV Direct Inc., Sup. Ct. No. C 4 0482 in the Superior Court for the Commonwealth of Massachusetts in March, 2004. In fact, there were more than thirty transactions from late August 2003 through February 2004, in which Cappseals either was paid when Healthy Solutions LLC was paid or Cappseals waited for payment.

5. At this time, ITV Direct owes Healthy Solutions LLC the approximate sum of \$1,821,864.00, all of which is past due, but Healthy Solutions has received no payment since early 2004.

Executed this _____day of July, 2004 under penalty of perjury in San Bernardino County, California:

/s/ Gregory R. Geremesz

Gregory R. Geremesz

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2004, 2004, a copy of foregoing NOTICE OF NON-OPPOSITION TO PLAINTIFF ITV DIRECT, INC.'S MOTION FOR LEAVE TO AMEND COMPLAINT was filed electronically. Notice of this filing will be sent to call parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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